IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

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1. **S.B. CIVIL WRIT PETITION NO.4195/1999- NARENDRA PATHAK VS. STATE OF RAJASTHAN & ORS.**

2. **S.B. CIVIL WRIT PETITION NO.4085/2000- NAVNEET KUMAR VS. STATE OF RAJASTHAN & ORS.**

3. **S.B. CIVIL WRIT PETITION NO.4348/2000- NILESH KUMAR VS. STATE OF RAJASTHAN & ORS.**

4. **S.B. CIVIL WRIT PETTION NO.2627/1998- HIMANSHU UPADHYAY VS. STATE OF RAJASTHAN & ORS.**

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER : **20th November, 2006**

PRESENT
HON'BLE JUSTICE SHRI MOHAMMAD RAFIQ

Shri Anil Bhandari, Advocate, for the petitioners.
Ms. Kusum Rao, Advodate, for the respondents.
Shri Rameshwar Dave, Dy. Government Advocate.

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BY THE COURT:

Heard learned counsel for the parties.

Learned counsel for the parties are in agreement that the controversy raised in these petitions are squarely covered by the judgment of the Division Bench of this Court in D.B. Civil Special Appeal (W) No.424/2002- State of Rajasthan & Ors. Vs. Bharat Kumar Sharma & Ors and three other connected appeals decided

by a common judgment dated 19.1.2005.

A perusal of the aforesaid Division Bench judgment reveals that this was based on still two earlier Division Bench judgments of this Court in Ram Narayan Vs. State, D.B. Civil Writ Petition No.2884/1999 decided on 2.4.2003 and Ummed Ali Vs. State of Rajasthan & Ors, D.B. Civil Writ Petition No.2887/1999 decided on 18.3.2004. It was held therein that "the scheme unfolded in Sections 14 and 17 of the Act of 19993 clearly revels that until the matter of recognition is under consideration and the order of refusal is communicated to the concerned institute, it is authorized to offer a course or training in the teacher education as a recognized institution and it does not get obliterated subsequently on non-recognition of the institution".

The aforesaid Division Bench judgment noted the fact that the institutions in question, which also included Shri Brihad Gujrat Sanskrit Parishad, Ahmedabad moved on 12th Nov., 1996 for recognition and such recognition was refused to them for giving admission from the academic Session 1998-99 by order dated 28th May, 1998.

Those basic facts having not been disputed, the present writ petitions are liable to be allowed in terms of the judgment dated 19.1.2005 as aforesaid.

It is informed that petitioners in writ petition Shri Narendra Pathak, Navneet Kumar and Himanshu Upadhyay have already

been appointed in November, 2001 as per their placement in merit list in compliance of the order of this Court. In regard to Nilesh Kumar it is stated that he has so far not been appointed. The respondents are therefore directed to consider his case for appointment on the post of Teacher Grade-III and if found suitable, appoint him on the basis of his placement in the merit list prepared pursuant to selection in question within a period of two months from the date of service of copy of this judgment. Although appointment of the said Shri Himanshu Upadhyay shall take effect from the date on which the candidate immediately below him in merit was so appointed but he shall he entitled to seniority and only notional benefits and seniority for the intervening period and shall not be entitled to arrears of salary etc.

These writ petitions are allowed with above directions.

(MOHAMMAD RAFIQ), J.

cpgoyal/-